UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,309	03/07/2001	Murali R. Krishnan	MS1-327USC1	3155

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EXAMINER
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ART UNIT	PAPER NUMBER
2661	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 March 2001</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-56</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) <u>54 and 56</u> is/are allowed.

6)☒ Claim(s) <u>1,7,10-13,15-20,23,24,26,29,33-43,45 and 50</u> is/are rejected.

7)☒ Claim(s) <u>2-6,8,9,14,21,22,25,27,28,30-32,44,46-49,51-53 and 55</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>07 March 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail. Date _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1-14, 22, 24-28, 31, 46-49, 5-52 and 55 are objected to because of the

following informalities and it is suggested to applicant:

In claim 8 line 5 replace "other threshold" with –another threshold-.

In claim 9 line 2 replace "other threshold" with –another threshold-.

In claim 14 line 6 replace "the end" with –an end-, insert "additional" before –operation-.

In claim 22 line 1 replace the second occurrence of "a" with –the-.

In claim 24 line 6 and line 7 insert " at least one" before –network-.

In claim 25 line 5 replace "the average" with –an average-.

In claim 31 insert "the" before –another server-..

In claim 46 line 4 replace " a first type" with –the first type-.

In claim 50 line 6 insert " at least' before –network server-..

In claim 52 line 6 insert "server" before –operations- and delete "the", in line 6 insert

"said" before –previous-, in line 7 insert "server" before –operations-.

In claim 53 line 4 insert " said" before –previous- and insert "server" before –operations-

In claim 55 lines 5, 7 , 10 and 11 insert 'plurality of" before –network servers-.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed

or described as set forth in section 102 of this title, if the differences between the

subject matter sought to be patented and the prior art are such that the subject

matter as a whole would have been obvious at the time the invention was made

to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was

made.

3. Claims 1, 7, 10-13, 15-17 and 23-24 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Hanson in view of Charvillat.

US patent No. 5,633,861 (Hanson et al) discloses Traffic management and congestion

control for packet based networks, comprising to generate a bandwidth value indicating

an average bandwidth used by a server to perform previous server operations

(measurement of the utilization of critical resources, col 5 lines 63-67) as in claim 15

and 1; receive a request for the server to perform an additional server operation;

compare the bandwidth value to a threshold (occupancy is constantly monitored and

compared to a set of queue thresholds, col 10 lines 36-40) ; and to restrict the request

in a first manner if the bandwidth value exceeds the threshold, as in claim 1; wherein

the first type comprises a transmit operation (transmission operation, col 11 lines 15-

20) , as in claim 7; at least a server (server 301 in Fig. 3), an asynchronous queue

(queue 305 in Fig. 3) and a throttling bandwidth system (bandwidth threshold

mechanism) coupled to said queue, as in claim 24

Hanson did not specifically disclose restricting the request if is above threshold, a

sin claims 1, 10-13, 15, 17 , 24.

US patent No. 5,315,586 (Charvillat et al) discloses a resource reallocation

method, comprising restricting/ rejecting allocation of resources if request is above a

predefined threshold, -several embodiments are disclosed- (col 7 lines 25-30), as in

claims 1, 10-13, 15, 24 .

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention that some kind of medium , such as a memory or storage

means which is an important feature of all computer processes would have been

needed and also to provide the request restriction method as disclosed by Charvillat to

the system disclosed by Hanson with the motivation of obtaining a flow enforcement

method wherein utilization of network resources is maximized while over utilization of

network resources is limited.

4. Claims 29, 33-42, 43, 45   are rejected under 35 U.S.C. 103(a) as being

    unpatentable over Charvillat. in view of Akiyoshi

US patent No. 5,315,586 (Charvillat et al) discloses a resource reallocation method,

comprising a method comprising: generating a value indicating a bandwidth used by a

server to perform previous server operations; receiving a request for the server to

perform an additional server operation; and to restricting the request ii above a

threshold (restricting/ rejecting allocation of resources if request is above a predefined

threshold, -several embodiments are disclosed- col 7 lines 25-30), as in claims 29, 33-

41, and 45.

Charvillat did not specifically disclose restricting the request in a first manner if

the value exceeds a first threshold but does not exceed a second threshold, and

restricting the request in a second manner if the value exceeds the second threshold, as

in claims 29 and 45.

US patent no. 5,715,237 (Akiyoshi et al) discloses a Digital switching equipment

comprising bandwidth allocation wherein a request is restricted in a first manner if the

value exceeds a first threshold but does not exceed a second threshold, and restricting

the request in a second manner if the value exceeds the second threshold

(col 7 lines 42-52), as in claims 29 and 45.

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention that some kind of medium , such as a memory or storage

means which is an important feature of all computer processes would have been

needed and also to provide the threshold mechanism as disclosed by Akiyoshi to the

method disclosed by Charvillat with the motivation of providing a flow enforcement

method which ensures precision cell traffic control.

5. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over

   Hanson in view of Akiyoshi

US patent No. 5,633,861 (Hanson et al) discloses Traffic management and

congestion control for packet based networks, comprising a host system comprising: at

least one network server(server 301 in Fig. 3),; an asynchronous thread queue to

receive a request(queue 305 in Fig. 3) , from a client process, to be performed by one

of the at least one network server; and a bandwidth throttling system, (bandwidth

threshold mechanism) coupled to the asynchronous thread queue to compare value

indicating a bandwidth used by the network server to perform previous server

operations to at least one of a first threshold and a second threshold (a set of queue

thresholds, col 10 lines 36-40) , as in claim 50.

Hanson did not specifically disclose to restrict the request in a first manner if the

value exceeds the first threshold but does not exceed the second threshold, and to

restrict the request in a second manner if the value exceeds the second threshold, as in

claim 50.

US patent no. 5,715,237 (Akiyoshi et al) discloses a Digital switching equipment

comprising bandwidth allocation wherein a request is restricted in a first manner if the

value exceeds a first threshold but does not exceed a second threshold, and restricting

the request in a second manner if the value exceeds the second threshold (col 7 lines

42-52), as in claim 50.

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention that some kind of medium , such as a memory or storage

means which is an important feature of all computer processes would have been

needed and also to provide the threshold mechanism as disclosed by Akiyoshi to the

method disclosed by Hanson with the motivation of providing a flow enforcement

method which ensures precision cell traffic control.

Allowable Subject Matter

6. Claims 54 and 56 are allowed.

7. Claim 55 would be allowable if rewritten to overcome objection to claim under

CFR 1.75

8. Claims 2-6, 8-9, 14, 21-22, 25, 27-28, 30-32, 44, 46-49, 51-53 are objected to as

being dependent upon a rejected base claim, but would be allowable if rewritten in

independent form including all of the limitations of the base claim and any intervening

claim. Please also notice objection to claims under 37 CFR 1.75

Conclusion

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306

(for formal communications intended for entry, for informal or draft communications,

please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 220 South 20th Street, Crystal

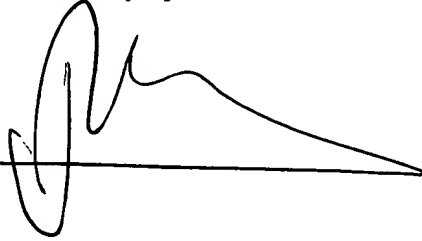Plaza Two, Lobby, Room 1B03, Arlington, Va 22202 (Customer Window).

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to **Ricardo Pizarro** whose telephone number is (571) 272-

3077. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30

PM. The fax number for this Group is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, **Kenneth Vanderpuye** can be reached on (571) 272-3078.

10/27/2004

Ricardo M. Pizarro